

In re TON ET AL., Application No. 09/776,794
Amendment C

REMARKS

The Office action dated November 2, 2005, and the references cited have been fully considered. In response, please enter the amendments and consider the remarks presented herein. Reconsideration and/or further prosecution of the application is respectfully requested.

Applicants have taken this opportunity to cleanup a definition in the specification to ensure that it is defined consistent with common usage and the MPEP. No new matter is added in this paper.

In terms of the § 112 rejections, Applicants appreciate the Office detecting the typographical error in claim 38, which has been corrected herein (i.e., replacing "requests" with "request"). Applicants respectfully traverse the § 112 rejection of claim of claim 36 as Applicants believe it is quite clear and definite, especially as when the claim is read as a whole as required by the MPEP. However, to alleviate any concern of the Office, Applicants have added the term "for said resources" to both claims 36 and 37 to move prosecution of this case along as it doesn't narrow the claim. As such, Applicants respectfully request all § 112 rejections be withdrawn.

Applicants appreciate the Office determining that dependent claim 41 would be allowable if re-written in independent format. Note, Applicants believe that the coversheet should have reflected that claim 41 was objected to, rather than rejected.

This case has been pending for an exceedingly long duration. Applicants respectfully request all rejections be withdrawn and all claims be allowed as the prior art of record neither teaches nor suggests all of the claim limitations for at least the reasons presented herein. Moreover, if the Office action complies with MPEP § 706 and 37 CFR 1.104(c)(2), then the Office cited the best prior art references available. As the prior art of record neither teaches nor suggests all the claim limitations of the pending claims, then all pending claims are believed to be allowable over the best prior art available, and Applicants request the claims be allowed and the application pass to issuance.

In re TON ET AL., Application No. 09/776,794
Amendment C

Independent claim 1 and its dependent claims of 3-10 stand rejected under 35 USC § 103(a) as being unpatentable over Perks, US Patent 6,532,487, in view of Buckler et al., US Patent 5,050,088. Applicants respectfully traverse the rejections of these claims for at least the reasons that the Office fails to present a *prima facie* proper rejection of each and every element/limitation recited in these claims, and because these references, alone or in combination, neither teach nor suggest all of the claim limitations.

The claim set of pending claims 1 and 3-10 is believed to be allowable at least for the reason that the limitation of updating the data structure with indications of *both* (a) the first resource and (b) the first semaphore. The prior art of record fails to teach this limitation, and the Office action fails to present a rejection for the limitation of updating the data structure with indications of the first semaphore. Applicants further submit that Perks teaches away from such a limitation as it teaches the use of index numbers assigned to each class for indexing into the semaphore mapping table, and therefore it would not update these indexes. Furthermore, Applicants traverse the presentation of the rejection in the Office action of the limitation of "receiving a request to access a first resource of the plurality of resources from a first task and in response, determining whether or not the first resource is available, said determining whether or not the first resource is available includes checking the data structure for an indication of the first resource." The Office relies on "FIG. 4, item 48, etc." which is part of the description of the Destructor and is directed to keeping track of the number of semaphores in use, and neither teaches nor suggests this limitation. A proper rejection must teach each and every limitation (e.g., "... in response ...", "determining whether or not the first resource is available," "said determining whether or not the first resource is available includes checking the data structure for an indication of the first resource"). Next, Applicants traverse the combination of Perks with Buckler et al. as even if a proper combination, it fails to teach all of the claim limitations. Independent claim 1 recites that "determining whether or not the first resource is available includes checking the data structure for an indication of the first resource" not based on the status of a semaphore. In fact, the "signal semaphore" cited by the Office does not signal a

In re TON ET AL., Application No. 09/776,794
Amendment C

process, rather the "signal semaphore" is called by a resource when it becomes available while being locked. Finally, the motivation provided by the Office is not proper for a § 103 rejection per MPEP § 2143.01, which requires a "specific understanding or principle within the knowledge of the skilled artisan" citing the controlling Federal Circuit precedent of *In re Kotzab*.

For at least the reason that the prior art of record neither teaches nor suggests all of the claim limitations, Applicants respectfully request the rejections of claims 1 and 3-10 be withdrawn, and these claims be allowed.

For at least the same reasons, independent claim 25 and its dependent claims of 34-35 are believed to be allowable. Applicants further request the Office present a proper rejection if it maintains one. The Office states that claims 25 and 34-35 are rejected as being unpatentable over Buckler et al., US 5,050,088 in view of Poublan et al., US 4,104,718. However, the specific rejection states that claim 25 is rejected for the same reasons stated for the rejection of claim 1, which was rejected under a different combination of references. For at least this reason, the Office failed to present a proper rejection in compliance with the MPEP, and failed to properly put Applicants on notice of a rejection even facially being proper.

Independent claim 36 and independent claim 37 and its dependent claims 38-40 stand rejected as being unpatentable over Buckler et al., US 5,050,088 in view of Poublan et al., US 4,104,718. Applicants respectfully traverse these rejections as the Office fails to present a proper rejection, and the prior art of record, alone or in combination, neither teaches nor suggests all of the recited claim limitations.

First, the Office in paragraph 16 of the Office action cites Buckler et al. for teaching all of the limitations of claim 36, but then in paragraph 17 states that Buckler fails to teach using two table data structures. In other words, the presentation in paragraph 16 fails to comply with MPEP 706.02(j) which requires the Office action to state the differences between the claim limitations and the art. As Buckler et al. fails to teach using a resource lock table and a semaphore allocation table as the Office states, then Applicants submit that paragraph 16 should have stated (instead of stating that these limitations are taught by Buckler et al.):

In re TON ET AL., Application No. 09/776,794
Amendment C

- Buckler et al. fails to teach "maintaining a resource lock table data structure indicating for each of a plurality of resources an allocated semaphore of a plurality of semaphores;"
- Buckler et al. fails to teach "maintaining a semaphore allocation table data structure indicating the currently used semaphores for said resources of a plurality of semaphores;"
- Buckler et al. fails to teach "in response to a received resource active read request for a particular resource from a first task, locating an indication of the particular resource in a particular entry in the resource lock table structure, the particular entry identifying that the particular resource is currently read locked using a first semaphore"
- Buckler et al. fails to teach "and in response [to the previous limitation]: ... updating a semaphore entry in the semaphore allocation table to reflect that the particular resource is associated with the second semaphore in addition to the first semaphore, updating the particular entry in the resource lock table structure to reflect an additional read lock associated with the particular resource." (Note, the Office action presents a rejection for the limitation of "updating a semaphore" but the claim recites " updating a semaphore entry in the semaphore allocation table."

If the reference fails to teach these two tables, then it fails to teach manipulating these two tables as recited in the claims. For example, the Office fails to present a rejection for the limitation of "updating the particular entry in the resource lock table structure to reflect an additional read lock associated with the particular resource" and the prior art of record neither teaches nor suggest this limitation.

Additionally, Applicants further submit that the "signal semaphore" cited by the Office fails to teach signaling the first task as it does not provide a signal to a process, rather the "signal semaphore" is called by a resource when it becomes available while being locked. Therefore, it fails to teach this limitation.

Additionally, the Office action equates Poublan et al.'s Job Occurrence Table to the recited limitation of " a semaphore allocation table data structure indicating the currently used

In re TON ET AL., Application No. 09/776,794
Amendment C

semaphores for said resources of a plurality of semaphores;" however, Poublan et al. neither teaches nor suggests that its Job Occurrence Table indicates the currently used semaphores for said resources of a plurality of semaphores, rather Poublan et al. teaches the use of a semaphore to access the Job Occurrence Table (col. 33, ll. 3-5), which is quite different than the recited limitations, and the JOT contains information about the jobs, not about the semaphores.

Finally, even if these reference in combination teach all the recited limitations which they do not for at least the reasons presented herein, the motivation provided by the Office is not proper for a § 103 rejection per MPEP § 2143.01, which requires a "specific understanding or principle within the knowledge of the skilled artisan" citing the controlling Federal Circuit precedent of *In re Kotzab*. Applicants do not understand how combining these references would "increase the control for allocation," rather that is an apparent general benefit claimed by Poublan et al., rather than a specific understanding or principal required for a proper combination. Applicants request the Office point out the deficiency of Buckler et al. that would require modification, a specific citation of this deficiency, and a specific teaching and citation of such teaching for combining references to overcome this deficiency.

For at least these reasons, Applicants respectfully request the rejections of claims 36-40 be withdrawn and these claims be allowed.

For at least the reasons presented herein, all claims are believed to be allowable over the prior art of record, and Applicants respectfully request that the rejections of all claims be withdrawn, all pending claims be allowed, and the application be passed to issuance.

In view of the above remarks and for at least the reasons presented herein, all pending claims are believed to be allowable over the prior art of record, the application is considered in good and proper form for allowance, and the Office is respectfully requested to issue a timely Notice of allowance in this case. If, in the opinion of the Office, a telephone conference would expedite the prosecution of the subject application, the Office is invited to call the undersigned attorney.

In re TON ET AL., Application No. 09/776,794
Amendment C

Applicant believes a one-month extension of time is required, and hereby petitions any extension of time required and has included herewith a credit card payment form (PTO-2038) for payment of the extension fee, and Applicant's representative hereby authorizes the Commissioner to charge/credit any additional associated fees to Deposit Account No. 501430.

Respectfully submitted,
The Law Office of Kirk D. Williams

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By


3/2/2006

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